

**REMARKS**

As an initial matter, Applicant would like to thank the Examiner for the courtesy and consideration extended to Applicant's representative during the telephonic interview conducted on June 2, 2009. During the interview, the matters addressed herein were discussed.

By the present amendment, Applicant has amended claim 1 to correct a typographical error without changing its scope. No new matter has been added. Claims 1-68 are pending in this application, of which claims 1 and 34 are independent.

Applicant respectfully requests favorable reconsideration of this application and withdrawal of all of the claim rejections for the reasons explained below.

**35 U.S.C. § 102(b) Rejections**

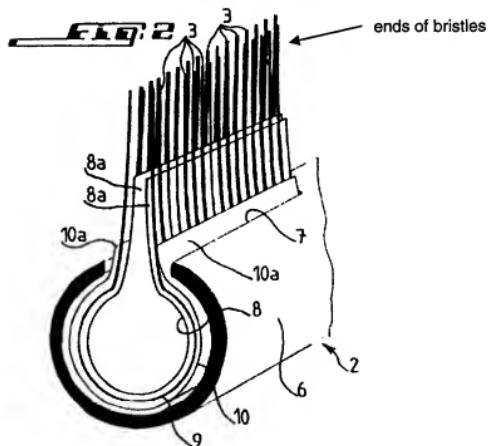
In the Office Action, claims 1-5, 7, 8, 13, 14, 16, 17, 18, 21, 23, 27-32, 34-36, 39, 40, 42, 47-49, 51-53, 56, 58, and 62-67 were rejected under 35 U.S.C. § 102(b) as being anticipated by PCT Publication No. WO 96/19930 to Lhuisset (hereinafter "Lhuisset"). Applicant respectfully traverses this rejection.

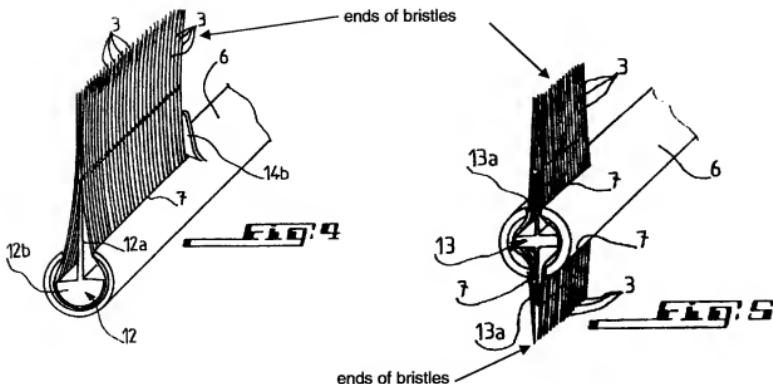
Independent claim 1 recites an applicator including, among other things, a support and "at least one bundle of bristles . . . comprising an end portion defining a first row of bristles . . . , the bundle being split into at least two sub-bundles extending away from the end portion, the at least two sub-bundles defining second and third rows of bristles extending at least in part outside of the support."

Independent claim 34 recites an applicator including, among other things, a support that defines a plurality of openings and "at least one bundle of bristles . . . being split into at least a first sub-bundle comprising bristles . . . extending away from the

support, and a second sub-bundle comprising bristles . . . extending away from the support, wherein the first sub-bundle and the second sub-bundle extend away from an end portion of the bundle."

As explained in its English-language abstract and shown in Figs. 2, 4, and 5 (reproduced below with annotations by Applicant to identify ends of the bristles), Lhuisset discloses a brush for applying mascara onto eyelashes. The brush has a tube 6 split along its surface that contains at least one insert 8 surrounded by flexible filaments 9 held in place with a sleeve 10. Free ends of the filaments 9 project out of slit 7 of tube 6 to form brush bristles 3. Lhuisset, Abstract; Figs. 2, 3.





While the Office Action asserts that Lhuisset anticipates independent claims 1 and 34 as well as the dependent claims listed above (Office Action at 2), Lhuisset clearly fails to teach or suggest any structure that could be considered "at least one bundle of bristles ... being split into at least two sub-bundles extending away from the end portion" of the bundle, as recited in claim 1, or "at least one bundle of bristles" being split into first and second sub-bundles that extend away from the end portion of the bundle, as recited in claim 34. Notably, the Office Action does not explain how any disclosure of Lhuisset could possibly constitute a bundle split into multiple "sub-bundles," as recited in the claims at issue.

Aside from its failure to disclose a bundle split into multiple "sub-bundles," Lhuisset also fails to teach or suggest "sub-bundles" that extend away from an end portion of the bundle, as recited in the claims at issue. As shown in the figures above, no "sub-bundles" extend away from the ends of bristles 9 of Lhuisset (labeled in figures

above). In addition, Lhuisset further fails to teach or suggest a first "sub-bundle" and a second "sub-bundle" extending away from the support, as recited in claim 34.

Claim 1, moreover, requires that the end portion of the bundle define "a first row of bristles" and that the at least two sub-bundles define "second and third rows of bristles extending at least in part outside of the support." Lhuisset also fails to disclose these features.

For at least these reasons, Lhuisset does not anticipate any of claims 1, 2-5, 7, 8, 13, 14, 16, 17, 18, 21, 23, 27-32, 34-36, 39, 40, 42, 47-49, 51-53, 56, 58, and 62-67. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of these claims under 35 U.S.C. § 102(b) based on Lhuisset.

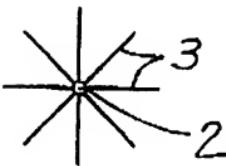
Additionally, claims 1-68 were rejected under 35 U.S.C. § 102(b) as being anticipated by European Patent Application Publication No. 0458496 A1 to Iaia et al. (hereinafter "Iaia"). Applicant respectfully traverses this rejection as well.

Referring to Figs. 2 and 3 below, Iaia discloses a cosmetic applicator having a brush assembly with a brush head 1 at one end of a shaft 4. The brush head 1 has an elongated brush stem 2 and a plurality of bristle tufts 3 attached circumferentially around the brush stem 2 and radiating outward. Iaia, col. 2, ll. 45-55; Figs. 2, 3.



FIG. 2

FIG. 3



In the Office Action, the Examiner asserted that “[t]he brush head 1 has an elongated brush stem 2, i.e. ‘at least one bundle of bristles’, with a plurality of bristle tufts 3, i.e. ‘sub-bundles’, circumferentially attached radiating outwardly therefrom.” Office Action at 3. Applicant respectfully disagrees with the Office Action’s characterization that the “brush stem 2” could be considered a “bundle of bristles” and that the bristle tufts 3 could be considered multiple “sub-bundles” split from a bundle, as recited in the claims at issue.

Contrary to the Office Action’s rejection, laia discloses that each of the bristle tufts 3 is *attached circumferentially around stem 2*, and that the bristle tufts are *arranged equidistant circumferentially surrounding stem 2.* laia, col. 2, ll. 53-55; Fig. 3 (emphasis added). None of the bristle tufts 3 is “split” from a “bundle” of bristles.

Rather, each of the bristle tufts 3 is separately attached to the stem 2. Since Iaia does not disclose a bundle of bristles being split into multiple sub-bundles, as recited in the claims at issue, this reference does not anticipate.

Furthermore, Iaia also fails to disclose multiple sub-bundles that extend away from an end portion of the bundle from which the sub-bundles were split. For this additional reason, Iaia does not anticipate.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-68 under 35 U.S.C. § 102(b) based on Iaia.

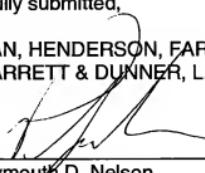
**Conclusions**

In view of the foregoing reasons, Applicant respectfully requests reconsideration of this application, withdrawal of all of the outstanding rejections, and timely allowance of all pending claims.

The Office Action contains statements and characterizations regarding the claims and the related art. Applicant declines to subscribe automatically to any statement or characterization in the Office Action, regardless of whether it is addressed above.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.  


By:

Plymouth D. Nelson  
Reg. No. 48,172

Dated: August 10, 2009